

UNITED STATES DISTRICT COURT
for the
District of Vermont

_____)	
ACE FIRE UNDERWRITERS INSURANCE CO.)	
As subrogee of Marlboro School of Music and/or)	
Soovin Kim, A.T.I.M.A.,)	
)	
Plaintiff)	
)	
v.)	Civil Action No.. 5:15-cv-7
)	
SHERATON BURLINGTON HOTEL &)	
CONFERENCE CENTER, et al.,)	
)	
Defendants.)	
_____)	

**ANSWER, AFFIRMATIVE DEFENSES, AND DEMAND FOR JURY TRIAL OF
STARWOOD AND FELCOR**

Defendants Starwood Hotels and Resorts Worldwide, Inc., (“Starwood”), and FCH/SH Leasing II, L.L.C. (“Felcor”)(collectively “Defendants”) hereby answer the Complaint, submit affirmative defenses to the Complaint, and demand a jury trial for all matters properly considered by a jury. As noted below, the third-named defendant in this case, i.e., Sheraton Burlington Hotel & Conference Center, is the name of a facility, not a legal entity.

I. ANSWER

PARTIES

1. Without knowledge. (“Without knowledge” means that Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph, that Defendants therefore deny such allegations, and that Defendants call upon Plaintiff to prove same.)

2. Denied that Sheraton is a legal entity capable of being sued. Admitted as to the remainder.
3. Admitted that Starwood is a Connecticut corporation with its principal offices in Stamford, Connecticut. Denied as to the remainder. At all pertinent times, the lone managing entity was Sheraton Vermont Corporation, i.e., a Vermont corporation having its principal office in Stamford, Connecticut.
4. Admitted.
5. Admitted.

FACTS

6. Without knowledge.
7. Admitted that Felcor owned the hotel. Denied as to the remainder.
8. Without knowledge.
9. Without knowledge.
10. Denied that the condition of the hotel parking lot and sidewalk was dangerous. Without knowledge as to the remainder.
11. Denied that the condition of the hotel parking lot and sidewalk was dangerous. Without knowledge as to the remainder.
12. Denied.
13. Denied.
14. Denied.
15. Denied.
16. Denied.
17. Denied.

18. Without knowledge.
19. Without knowledge.
20. Starwood and Felcor hereby incorporate by reference their responses to Paragraphs 1 – 19 as though fully set forth herein.

NEGLIGENCE

21. Denied
22. Admitted as to the alleged duties owed. Without knowledge as to reasonable measures “required by law.” Denied as to the remainder.
23. Denied.
24. Denied that Defendants’ conduct was the proximate cause of Plaintiff’s damages. Without knowledge as to the remainder.

WHEREFORE, Defendants deny that Plaintiff is entitled to judgment in any amount.

II. AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief may be granted.
2. Defendants did not breach any applicable standard of care.
3. Plaintiff’s damages, if any, were not proximately caused by the alleged wrongdoing of the Defendants.
4. Plaintiff’s alleged damages were proximately caused by the superseding and/or intervening conduct or negligent acts of third persons over whom Defendants had no control.
5. Plaintiff has failed to mitigate its damages, if any.

6. Plaintiff's claims are barred or reduced by the negligence of one or more of the Plaintiff's subrugors, i.e., the Marlboro School of Music and Mr. Soovin Kim.
7. Defendants reserve the right to add additional affirmative defenses as are reasonable and necessary as discovery progresses.

III. DEMAND FOR JURY TRIAL

Defendants demand a trial by jury on all issues properly before a jury.

STARWOOD HOTELS AND RESORTS
WORLDWIDE, INC., and
FCH/SH LEASING II, L.L.C.

/s/ Bill Staar

William Staar (Bar No. 5115)
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Date: 2/13/15

CERTIFICATE OF SERVICE

I hereby certify that, on this 13th day of February 2015, I will file this document filed through the CM/ECF System and understand that the Court will forward an electronic form of it to the following registered participants in that system. I will forward paper copies to any participants listed below not so registered.

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